

### **REMARKS**

This is in response to the Advisory Action mailed on November 3, 2004, the Office Action mailed on August 16, 2004, and the references cited therewith.

Claims 1, 3, 4, 6, 9, 23, and 37 are amended, claim 2 is canceled, and claim 40 is added; as a result, claims 1, 3-7, 9-18, 20-24, and 37-40 are now pending in this application.

#### **Request for an Interview**

Applicant requests an interview with the Examiner before any additional action is taken on this patent application.

#### **Allowable Subject Matter**

Claims 25-36 were indicated to be allowable. Applicant acknowledges and thanks the Examiner for indicating claims 25-36 are allowable.

#### **About the Amendments**

Applicant has amended independent claim 1 to include "steps for combining ingredients of the quantity of the product." Independent claims 3, 6, 9, and 23 have each been amended to include similar features. Support for these amendments can be found, at least, in the Instant Application at page 1, Lines 19-21.

#### **New Claim**

Applicant has added dependent claim 40. Support for the claim can be found, at least, in the Instant Application at Page 8, Lines 11-20. Additionally, since claim 40 is dependent on claim 1, Applicant respectfully submits that claim 40 is allowable for at least the reasons given below, in the discussion of independent claim 1.

§102 Rejection of the Claims

Claims 1-7, 9-17 and 20-24 were rejected under 35 USC § 102(e) as being anticipated by Kohn et al. (U.S. Patent No. 5,963,447, referred to hereinafter as Kohn).

The following discussion will address assertions made in the Final Office Action and the Advisory Action. Regarding independent claim 1, the Final Office Action asserts that Kohn anticipates the claimed “annotating one or more actions of a sequence of actions in the production recipe with a desired intention for the one or more actions.” In particular, the Final Office Action asserts that Kohn’s “recipe for building a procedural model (automaton) for generating a variable instantiation and theorem proving” (Kohn Column 21, Lines 40-44) anticipates the claimed “production recipe.” The Advisory Action asserts Kohn’s manual input from a user (Kohn Column 18, Lines 44-45) anticipates the claimed “annotating one or more actions of the sequence of actions in the production recipe with a desired intention for the one or more actions.” The Advisory Action also asserts Kohn’s action of Planner 24 in relation to Knowledge-Builder 22 (Kohn Column 18, Lines 54-59) anticipates the claimed “annotating one or more actions of the sequence of actions in the production recipe with a desired intention for the one or more actions.”

Despite the Examiner’s assertions and explanations, Applicant cannot find any passage in Kohn that teaches the claimed “annotating one or more actions of the sequence of actions in the production recipe with a desired intention for the one or more actions.” However, in order to clarify the difference between the cited art and claim 1, Applicant has amended independent claim 1. In particular, Applicant has amended claim 1 to recite “wherein the production recipe includes a sequence of actions for combining ingredients of the batch of product.” Applicant cannot find a passage in Kohn that anticipates a “sequence of actions for combining ingredients

of the batch product.” As such, Applicant respectfully submits that Kohn does not teach or suggest each and every element of amended independent claim 1.

Independent claims 3, 6, 9, and 23 each include features similar to those noted in the discussion of independent claim 1. For at least the reasons discussed above, Applicant respectfully submits that independent claims 1, 3, 6, 9 and 23 are allowable.

Claims 4, 5, 7, 10-17, 20-22, 24, and 37-39 each depend, directly or indirectly, on one of independent claims 1, 3, 6, 9 or 23 and are allowable for at least the reasons discussed above.

For at least the reasons cited above and elements of the claims, Applicant respectfully submits that Kohn does not teach or suggest each and every element of claims 1, 3-7, 9-17, 20-24, and 37-39. Therefore, Applicant requests that the rejections be withdrawn and the claims be allowed.

#### §103 Rejection of the Claims

Claim 18 was rejected under 35 USC § 103(a) as being unpatentable over Kohn in view of Acknowledged Prior Art (referred to hereinafter as APA). Applicant traverses this rejection because the Office Action has not made a *prima facie* case of obviousness.

Claim 18 depends on independent claim 9. As discussed above, Applicant submits that Kohn does not teach or suggest all of the elements of claim 9. The only way for the combination to teach or suggest all the elements of claim 18 is for APA to provide what Kohn is lacking. However, APA does not teach or suggest “the recipe steps are steps for combining ingredients of a quantity of product,” as recited in claim 9. Therefore, Applicant respectfully submits that, for at least the reasons noted above, the combination of Kohn and APA does not teach or suggest each and every element of dependent claim 18.

*Reservation of Rights*

Applicant does not admit that documents cited under 35 U.S.C. §§ 102(a), 102(e), 103/102(a), or 103/102(e) are prior art, and reserves the right to swear behind them at a later date. Arguments presented to distinguish such documents should not be construed as admissions that the documents are prior art.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 612-371-2169 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ANOOP K. MATHUR ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938

Minneapolis, MN 55402

612-371-2169

Date 11/16/04

By Andrew DeLizio  
Andrew DeLizio  
Reg. No. 52,806

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16<sup>th</sup> day of November, 2004.

Dawn M. Boyle

Name

Dawn M. Boyle

Signature